

BEFORE THE  
VETERINARY MEDICAL BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of License of:

JAMES CHRISTIAN COGHLAN,  
Revoked Veterinarian License No. VET  
9742,

Petitioner.

Case No. AV 2006 19

OAH No. 2018100993

**DECISION**

This matter was heard on January 24, 2019, before a quorum of the Veterinary Medical Board (Board), Department of Consumer Affairs, State of California, in Sacramento, California. Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, presided.

Summer D. Haro, Deputy Attorney General, Office of the Attorney General, Department of Justice, State of California, appeared pursuant to Government Code section 11522.

Petitioner James Christian Coghlan represented himself.

Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision on January 24, 2019.

**FACTUAL FINDINGS**

*History of Licensure*

**ISSUANCE OF VETERINARIAN LICENSE AND PREMISES PERMIT**

1. On September 1, 1987, the Board issued Veterinarian License Number VET 9742 to petitioner. The license was revoked March 17, 2017, and expired June 30, 2018.

2. On November 20, 1990, the Board issued Premises Permit Number HSP 4414 to West 17th Street Animal Hospital, James Coghlan, Managing Licensee. The permit was revoked March 17, 2017, and expired May 31, 2017.

#### INITIAL DISCIPLINE OF VETERINARIAN LICENSE AND PREMISES PERMIT

3. On October 29, 2008, Susan M. Geranen, then Executive Officer of the Board, signed an Amended Accusation solely in her official capacity. The Amended Accusation sought to discipline petitioner's license and permit based on allegations that he: 1) was convicted of driving under the influence of alcohol or drugs on August 3, 2004; 2) was convicted of driving without a license on April 21, 2004; 3) failed to keep an accounting of controlled substances; 4) failed to display a license in principal place of business; 5) failed to post notice of no staff on premises after hours; 6) failed to post referral for emergency treatment after hours; 7) maintained expired drugs in the clinic; 8) failed to document in patient charts amounts of controlled substances given to patients; 9) maintained incomplete and inaccurate controlled substances logs; 10) failed to reconcile drug inventory to controlled substances log; 11) improperly placed an autoclave in surgical suite; 12) secured controlled substances improperly; 13) failed to properly account for controlled substances; and 14) failed to report convictions on renewal application.

4. On December 14, 2010, petitioner resolved the Amended Accusation by entering into a Stipulated Settlement and Disciplinary Order whereby he stipulated to the truth of the allegations in the Amended Accusation, except for the following allegations:

43. Dr. H reviewed the amount of controlled substances purchased and used monthly in [petitioner's] practice. Dr. H found that [petitioner] used far fewer amounts of controlled substances each month in his practice than he purchased. Dr. H also found that [petitioner's] purchase of controlled substances was much higher than average. In addition, [petitioner] ordered a far wider range of various controlled substances than most practitioners would use. [Petitioner] ordered many controlled substances that are rarely used in veterinary medicine.
44. Dr. H concluded that it was apparent that [petitioner] was diverting controlled substances and human dangerous drugs either through personal use or through illegal sales.

[¶] ... [¶]

65. [Petitioner] was also arrested for unlawfully and falsely representing and identifying himself to a peace officer upon a lawful detention and arrest, in order to evade the process of the court and to evade proper identification by

the investigating officer. [Petitioner] was additionally arrested for failing to maintain insurance or proof of financial responsibility for said vehicle when requested to do so.

[¶] ... [¶]

67. [Petitioner's] Veterinarian's License Number 9742 and Premise Permit Number 4414 are subject to disciplinary action under Code sections 4875 and 4883 (g)(3) in that [petitioner] violated statutes, rules, and regulations regarding dangerous drugs and controlled substances when he furnished veterinary and dangerous drugs outside the veterinarian/client patient relationship in violation of California Code of Regulations Section 2032.2 as set forth in paragraphs 53 and 57 above.

[¶] ... [¶]

75. [Petitioner's] Veterinarian's License Number 9742 and Premise Permit Number 4414 are subject to disciplinary action under Code section 4883 in that [petitioner] violated statutes, rules, and regulations regarding dangerous drugs and controlled substances when he used far fewer amounts of controlled substances each month in his practice than he purchased. In addition, [petitioner's] orders of controlled substances was [sic] much higher than average. [Petitioner] ordered a far wider range of various controlled substances in most practitioners would use. [Petitioner] also used many controlled substances that are rarely used in veterinary medicine. These actions violate section 4883 as set forth in paragraph 43 above.

[¶] ... [¶]

81. [Petitioner's] Veterinarian's License Number 9742 and Premise Permit Number 4414 are subject to disciplinary action under Code sections 4846.4, 4883, and 4885 in that [petitioner] failed to report his April 21, 2004 conviction on his June 14, 2004 renewal application as set forth in paragraph 59 above.

5. The Stipulated Settlement provided for revocation of the petitioner's license and permit, stayed, and for his license and permit to be placed on probation for four years,

subject to terms and conditions. One of the terms and conditions was that petitioner "shall abstain completely from the use of alcoholic beverages." On April 6, 2011, the Board adopted the Stipulated Settlement and Disciplinary Order, effective May 6, 2011.

#### SUBSEQUENT TERMINATION OF PROBATION AND IMPOSITION OF STAYED DISCIPLINE

6. On November 1, 2016, Annemarie Del Mugnaio, then Executive Officer of the Board, authorized the filing of a First Amended Accusation and Third Amended Petition to Revoke Probation. The First Amended Accusation alleged grounds for discipline based on petitioner's: 1) failure to establish a veterinarian-client-patient relationship; 2) record-keeping violations; 3) negligence; and 4) incompetence. The Third Amended Petition to Revoke Probation alleged grounds to revoke petitioner's probation and impose the stayed discipline based on his failure to: 1) obey all laws; 2) file quarterly reports and interviews; 3) abstain from controlled substances; 4) abstain from alcohol; and 5) submit biological fluid samples.

7. An administrative hearing was held on the First Amended Accusation and Third Amended Petition to Revoke Probation. The Administrative Law Judge issued his Proposed Decision finding cause for discipline based on petitioner's failure to establish a veterinarian-client-patient relationship, record-keeping violations, and negligence.<sup>1</sup> The Administrative Law Judge also found cause to revoke probation and impose the stayed discipline based on petitioner's failure to obey all laws, file quarterly reports and interviews, abstain from alcohol, and submit biological fluid samples. No cause was found based on the allegation petitioner failed to abstain from controlled substances.

8. On February 16, 2017, the Board issued an Order of Decision adopting the Proposed Decision as its Decision. Petitioner's license and permit were revoked, effective March 17, 2017.

#### SUBSEQUENT CITATION FOR UNLICENSED PRACTICE OF VETERINARY MEDICINE

9. On November 5, 2018, Jessica Siefertman, Executive Officer of the Board, issued petitioner a citation for engaging in the unlicensed practice of veterinary medicine and the practice of veterinary medicine at an unregistered premises. The citation imposed a \$5,000 civil penalty, and included an order of abatement ordering petitioner "to cease and desist from violating BPC sections 4825 and 4826, subdivision (a)-(c), (f), and/or 4853."

10. The citation was based on the following allegations:

8. On or about September 23, 2017, [petitioner] was seen wearing scrubs and identified himself as a doctor. [Petitioner] told investigators that he performs

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<sup>1</sup> While the Administrative Law Judge made a factual finding that petitioner acted incompetently, no legal conclusion was made based on that finding.

consultations, examinations, and administers vaccinations. Such unlicensed conduct constitutes a violation of BPC sections 4825 and 4826, subdivisions (a) and (f).

9. On or about June 16, 2017 [sic] and September 23, 2017, [petitioner] examined and diagnosed animal patients. Such unlicensed conduct constitutes a violation of BPC sections 4825 and 4826, subdivisions (b) and (c).
10. On or about May 27, 2017 [sic] through September 23, 2017, [petitioner] performed unlicensed practice of veterinary medicine at his previously registered location. The Board has not issued a premise registration authorizing veterinary medicine to be performed [at] said location since the registration was revoked. Such unlicensed conduct constitutes a violation of BPC section 4853, subdivision (a).

11. Petitioner did not request an administrative hearing challenging the citation. He paid the \$5,000 civil penalty.

#### *Petition for Reinstatement*

12. On May 24, 2018, petitioner signed a Petition for Reinstatement or Modification of Penalty seeking reinstatement of his license and permit, and submitted it to the Board. He explained in the petition that he is "currently unemployed with no income and using savings and retirement income for living expenses." He described the following rehabilitative or corrective steps taken since his license and permit were revoked:

Medical and surgical intervention for chronic infection and kidney stones 6/15/2017 - 7/27/2017  
Psychological counsel and therapy 10/18/2017 - Present  
Outpatient Chemical Dependency Recovery Program  
10/21/2017 - 11/16/2017  
Weekly AA Meetings and Weekly Celebrate Recovery  
attendance 10/22/2017 - Present

#### *Petitioner's Evidence*

13. At hearing, petitioner explained he began suffering from symptoms of fibromyalgia and lethargy in 2012, and sought medical treatment at Kaiser Permanente. He was diagnosed with palindromic rheumatism and depression, but did not accept those diagnoses and sought a second opinion. A private psychiatrist diagnosed him with "professional burnout," and prescribed Adderall to help petitioner cope with the "significant

stress" he felt from having to maintain a veterinary practice that included four veterinarians and was open seven days a week.

14. Petitioner explained that Adderall helped him manage the workload and alleviated his symptoms of fibromyalgia and lethargy for a period of time. But those symptoms eventually returned, and he tried a low carbohydrate diet to help him cope. He also began drinking kombucha, a fermented, slightly alcoholic, sweetened black or green tea with supposed health benefits. Petitioner explained that while he recognized he was violating the terms and conditions of his probation by consuming beverages containing alcohol, he believed the Board would allow him to do so because he drank kombucha to improve his health.

15. Drinking kombucha helped alleviate petitioner's symptoms, but he eventually developed a dependence on its alcoholic content. Eventually, his consumption of alcohol led to the termination of his probation and revocation of his license and permit.

16. Petitioner's loss of his ability to practice veterinary medicine gave him time to focus on improving his health, and he stopped drinking kombucha. A series of uterine tract infections led to his discovery of an underlying persistent kidney-bacterial infection, which his physicians concluded was likely related to his long history of kidney stones.

17. Petitioner treated his kidney bacterial infection with antibiotics, and underwent multiple lithotripsy procedures to break up his kidney stones. Such treatment has caused his symptoms of fibromyalgia and lethargy to subside.

18. Petitioner stated at hearing that he continues to treat with a psychologist or psychiatrist, but did not specify what condition the treatment is for. He referenced entering into "psychological counsel at a Kaiser Permanente facility in October 2017" in his narrative statement, but referenced Ms. Grimes's December 11, 2017 correspondence confirming his enrollment in the Kaiser Permanente Chemical Dependency Recovery Program. There was no evidence the program included treatment for his depression.

19. Petitioner readily admitted he is an alcoholic, and explained he participated in an outpatient chemical dependency treatment program through Kaiser Permanente. He has attended weekly Alcoholics Anonymous meetings and Celebrate Recovery meetings since October 22, 2017.<sup>2</sup> He obtained sobriety from alcohol on June 27, 2017, and carried his six-month and one-year sobriety chips with him at hearing. He explained he continues to "work" the 12 steps of sobriety, and included a letter of apology to the Board with his petition.<sup>3</sup>

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<sup>2</sup> Celebrate Recovery is a Christ-centered 12 Step recovery program founded in 1991 at Saddleback Church in Lake Forest, California.

<sup>3</sup> The Ninth Step of AA is to make amends to those harmed by the addiction wherever possible.

20. Petitioner's testimony about his recovery from alcoholism was corroborated by two letters from Deborah Grimes, LCSW, included with his petition. In correspondence dated December 11, 2017, Ms. Grimes, a Licensed Clinical Social Worker with Kaiser Permanente Medical Offices Orange Rehab Pavilion, confirmed petitioner's enrollment in the Kaiser Permanente Chemical Dependency Recovery Program on September 11, 2017. She explained that petitioner's individual treatment plan included education, group therapy, and individual counseling sessions. Ms. Grimes's April 23, 2018 correspondence confirmed petitioner "has maintained his sobriety and has continued to follow up with [her] for consistent individual therapy. He is making good progress."

21. Petitioner also included his certificate of attendance at the WVC 90th Annual Conference in March 2018. He completed 57 continuing education hours by attending the conference. At hearing, he explained he would like to attend other continuing education courses, but believed the revocation of his license precluded him from doing so. He also explained he is embarrassed to attend continuing education courses in the area in which he used to work.

22. Petitioner included character reference letters written by Mark Kopit, DVM, and Rupinder S. Goraya, DVM, two veterinarians who have known petitioner professionally for at least 10 years. While both authors spoke of petitioner's skills as a veterinarian in laudable terms, neither described the extent of his knowledge, if any, of petitioner's entire disciplinary history with the Board.<sup>4</sup>

#### *Evaluation of Petitioner's Rehabilitation*

23. Petitioner has the burden of producing clear and convincing evidence demonstrating sufficient rehabilitation to support the conclusion that he is capable of practicing veterinary medicine in a manner consistent with public health, safety, and welfare. The evidence presented for consideration consisted of his hearing testimony, his petition, and the documents he submitted in support of his petition and at hearing.

24. Petitioner has taken significant steps towards obtaining his sobriety, and expressed at hearing his intent to continue maintaining his sobriety. His commitment to sobriety was confirmed by Ms. Grimes's correspondence. Petitioner is to be commended for achieving his sobriety, and he is encouraged to maintain a sober lifestyle.

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<sup>4</sup> While petitioner explained in the narrative statement included with his petition "the DVM recommendation authors were given the package explaining the full scope of the disciplinary action taken against me and my recovery activities since then," he provided no further description or explanation at hearing of the information included in the "package" provided. Therefore, there was insufficient information to evaluate the persuasiveness of either author's opinion of petitioner's character. (*Seide v. Committee of Bar Examiners of the State Bar of California* (1989) 49 Cal.3d 933, 940 [evaluations of one's character by those unfamiliar with his entire history of misconduct "carry less weight"].)

25. But petitioner's struggles with alcohol addiction date back to at least August 3, 2014, the date of the conviction for driving under the influence of alcohol that was one of the grounds for which his veterinary license and premises permit were initially disciplined. Given the length of his history with alcohol addiction, 19 months of sobriety, while laudable, is insufficient.

26. Additionally, petitioner did not present as a credible witness at hearing, and his testimony was unpersuasive to the extent it was not corroborated by other evidence. His demeanor at hearing was one of arrogance, and he attempted to excuse his violations of the Veterinary Medicine Practice Act (Bus. & Proc. Code, § 4800 et seq.; the Act) and the regulations adopted pursuant to it by repeatedly explaining there are many "gray areas" in the Act and concomitant regulations. Additionally, he continuously referenced the "conflicting" advice he would receive from his attorney and Board staff.

27. Furthermore, petitioner's evidence was wrought with inconsistencies. For example, he initially testified that his prescription for Adderall helped him cope with the stress of maintaining his practice for a period of time, and wrote in his narrative statement that the prescription "was of great benefit for many months." However, he later testified that he "immediately" stopped taking Adderall because he did not like the medication. Also, he admitted he received a copy of the Board's February 16, 2017 Order of Decision and the Administrative Law Judge's January 5, 2017 Proposed Decision, but claimed to have not read either document and to have learned that his license and permit were disciplined, in part, on a finding of negligence for the first time at hearing. His supposed failure to read the documents that revoked his ability to practice veterinary medicine was inconsistent with his testimony that "I want to be the best."

28. When all the evidence is considered, petitioner did not meet his burden of producing evidence of sufficient rehabilitation to demonstrate his ability to practice veterinary medicine in a manner consistent with public health, safety, and welfare. Therefore, his petition must be denied.

## LEGAL CONCLUSIONS

### *Applicable Burden/Standard of Proof*

1. Petitioner has the burden of proving his eligibility for reinstatement of his licenses, and he must do so by clear and convincing evidence. (*Hippard v. State Bar of California* (1989) 49 Cal.3d 1084, 1091-1092.) "The courts have defined clear and convincing evidence as evidence which is so clear as to leave no substantial doubt and as sufficiently strong to command the unhesitating assent of every reasonable mind. [Citations.] It has been said that a preponderance calls for probability, while clear and convincing proof demands a *high probability* [citations]." (*In re Terry D.* (1978) 83 Cal.App.3d 890, 899; italics original.)



*Applicable Law*

2. "A person whose license or registration has been revoked . . . may petition the board for reinstatement" of his license or registration. (Bus. & Prof. Code, § 4887, subd. (a)(1).) "The petition shall be accompanied by at least two verified recommendations from veterinarians licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed." (Bus. & Prof. Code, § 4887, subd. (b).) In deciding a petition for reinstatement, "the board may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities since the license or registration was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability." (*Ibid.*)

3. The Board "shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written arguments before the agency itself." (Gov. Code, § 11522.)

4. California Code of Regulations, title 16, section 2041, subdivision (c), provides the following regarding petitions for reinstatement:

When considering a petition for reinstatement of license under the provisions of Section 11522 of the Government Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in subsection (a) of this section.

5. California Code of Regulations, title 16, section 2041, subdivision (a), outlines the following criteria for consideration:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the

applicant.

*Conclusion*

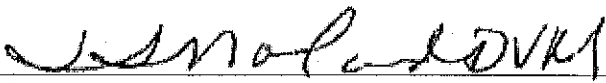
6. When all the evidence is considered, petitioner did not present evidence of sufficient rehabilitation to justify reinstating his veterinary license or premises permit for the reasons discussed in Factual Findings 23 through 28. Therefore, his petition must be denied.

ORDER

Petitioner James Christian Coghlan's Petition for Reinstatement or Modification of Penalty seeking reinstatement of his veterinarian license and premises permit is DENIED.

This Decision shall become effective on APR 17 2019.

IT IS SO ORDERED this 18 day of MARCH 2019.

  
JAYMIE NOLAND, DVM  
President  
Veterinary Medical Board  
Department of Consumer Affairs  
State of California